

IN THE UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS

| | | |
|------------------------------------|---|--------------------------|
| JOSEPH HARRISON, |) | Case No.: |
| Plaintiff, |) | |
| v. |) | CIVIL COMPLAINT |
| |) | AND |
| TEKOA CHARTER SCHOOL, INC., |) | JURY TRIAL DEMAND |
| D/B/A TEKOA ACADEMY |) | |
| Defendant |) | |

Plaintiff Joseph Harrison, (hereinafter “Plaintiff”), by and through his undersigned attorney, alleges against the Tekoa Charter School, Inc., d/b/a Tekoa Academy, (hereinafter “Defendant”) as follows:

PRELIMINARY STATEMENT

1. This is an action for damages arising from Defendant’s violations of the Telephone Consumer Protection Act, 47 U.S.C. §227 *et seq.* (“TCPA”).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 47 U.S.C. §227(b)(3).

3. Venue is proper in this district under 28 U.S.C § 1391(b) where the acts and transactions giving rise to Plaintiff’s action occurred in this district, where Plaintiff resides in this district and where Defendant transacts business in this district.

PARTIES

4. Plaintiff, Joseph Harrison, is a natural person, who at all relevant times has resided in the city of Houston, Harris County, State of Texas.

5. Defendant, Tekoa Charter School, Inc., d/b/a Tekoa Academy, is incorporated and doing business in the State of Texas, with its corporate mailing address as 326 Thomas Boulevard, Port Arthur, TX 77640. Defendant's website also indicates its name as "Tekoa Academy of Accelerated Studies" and/or "Tekoa Academy of Accelerated Studies STEM School."

FACTUAL STATEMENT

6. Between April 22, 2016 and April 27, 2016, Defendant placed seven (7) calls to Plaintiff's cellular telephone (409) xxx-0109, which is a number that was assigned to a cellular telephone service for which Plaintiff incurs charges.

7. On April 27, 2016 and again on May 3, 2016, Plaintiff advised Defendant that they were to stop calling him. Despite this notice to cease calling, Defendant placed thirteen (13) unauthorized calls to Plaintiff's cellular telephone between April 29, 2016 and May 24, 2016.

8. The calls to Plaintiff's cellular phone came from (409) 982-5400, which is a number belonging to Defendant.

9. Defendant's telephone calls were computer generated through the use of an automatic dialing system and several of the calls came at very early hours, i.e. 5:50 a.m., 6:04 a.m. and 6:13 am, presumably before Defendant's school was open.

10. Defendant did not have consent to call Plaintiff's cellular telephone through the use of an autodialer, but Plaintiff continued to receive calls after revoking any consent that may have existed or previously had been given to Defendant.

11. As a result of the foregoing actions, Plaintiff has been harassed and abused, and has been damaged and is entitled to relief.

COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT
47 U.S.C. §227 et seq.

12. Plaintiff repeats and realleges the prior paragraphs as if fully set forth herein.

13. Defendant called Plaintiff's cellular telephone number repeatedly after being advised to stop calling him. The calls were excessive, abusive and harassing.

14. Defendant called Plaintiff's cellular telephone number through use of an automatic telephone dialing system which subjects them to the provisions of the Act.

15. Defendant did not have express consent from Plaintiff to call Plaintiff's cellular telephone number at any time. If consent had previously been provided, it was revoked by Plaintiff on April 27, 2016 and then again on May 3, 2016.

16. Plaintiff has been damaged by Defendant's actions which constitute violations of 47 U.S.C. § 227(b)(1)(A)(iii), as well as any other applicable provisions of the TCPA, and its conduct is not exempt from the proscriptions of the statute.

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

- a) Adjudging that Defendant violated 47 U.S.C. § 227(b)(1)(A)(iii);
- b) Enjoining Defendant from placing any further telephone calls to Plaintiff in violation of the TCPA, pursuant to 47 U.S.C. § 227(b)(3)(A);
- c) Awarding Plaintiff statutory damages in the amount of \$500.00 per violation, pursuant to 47 U.S.C. § 227(b)(3)(B);
- d) Awarding Plaintiff actual damages, pursuant to 47 U.S.C. § 227(b)(3)(B);

- e) Awarding Plaintiff treble damages, pursuant to 47 U.S.C. § 227(b)(3);
- f) Awarding Plaintiff reasonable attorneys' fees and costs incurred in this action;
- g) Awarding Plaintiff any pre-judgment and post-judgment interest as may be allowed under the law; and
- h) Awarding other and further relief as this Court may deem just and proper

JURY TRIAL DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated this 11th Day of July, 2016

Respectfully Submitted,

/s/ Seth P. Crosland

Seth P. Crosland, Esq.
Brandy Austin Law Firm
2404 Roosevelt Drive
Arlington, Texas 76016
(P) (817) 841-9906
(E) seth@brandyastinlaw.com
Texas Bar # 24069551

Of Counsel to the Firm:
Law Offices of Michael Lupolover, P.C.
120 Sylvan Avenue, Suite 300
Englewood Cliffs, NJ 07632
Telephone: 201-461-0059
Fax: 201-608-7116
Email: rc@lupoloverlaw.com